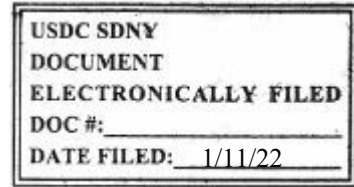


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



United States of America,

–v–

Jose Nieves,

Defendant.

12-cr-931 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

Before the Court is Defendant Jose Nieves’s *pro se* motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). Dkt. No. 79. The Government opposes the motion, Dkt. No. 82, and Mr. Nieves filed a reply in further support of his motion on December 27, 2021, Dkt. No. 85.

On May 13, 2020, the Court denied Mr. Nieves’s counseled motion for relief on the basis that, despite his vulnerability to COVID-19, a reduction in his sentence would be inconsistent with the applicable sentencing factors because of his participation in a long-running narcotics conspiracy involving murder. *United States v. Nieves*, No. 12-cr-931 (AJN), 2020 WL 2476185, at *1 (S.D.N.Y. May 13, 2020). The Court also denied Mr. Nieves’s subsequent *pro se* motion for compassionate release on August 8, 2021, again concluding that the § 3553(a) sentencing factors weighed against any reduction in sentence. *Untied States v. Nieves*, No. 12-cr-931 (AJN), 2021 WL 3494820, at *1 (S.D.N.Y. Aug. 8, 2021). The Court now DENIES Mr. Nieves’s current motion.

In his current motion, Mr. Nieves argues that his health condition has worsened such that he must now be assisted by an inmate companion. Dkt. No. 79 at 1. Even assuming (without deciding) that Mr. Nieves has properly exhausted his administrative remedies and has shown

extraordinary and compelling reasons for his release, the Court continues to conclude—for the same reasons stated in its prior opinion—that a further reduction in Mr. Nieves’s below-guidelines sentence would not adequately reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, or afford adequate deterrence to criminal conduct as required by § 3553(a). *See Nieves*, 2021 WL 3494820, at *2. The Court notes, as it did in its prior opinion, that it is cognizant of the special burdens imposed by the pandemic on incarcerated persons, particularly those like Mr. Nieves with significant medical problems. But that consideration is mitigated by the fact that Mr. Nieves is fully vaccinated and has previously recovered from COVID-19. *Id.* After considering the applicable sentencing factors, the Court continues to find that the sentence Judge Scheindlin imposed remains sufficient but no greater than necessary to effectuate the purposes of punishment. The Court thus declines to exercise its discretion to reduce Mr. Nieves’s sentence.

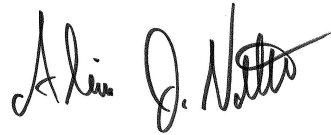
The Court accordingly DENIES Mr. Nieves’s motion for compassionate release. This resolves docket number 79.

This Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, so in forma pauperis status is denied. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully directed to mail a copy of this Order to Mr. Nieves and to note that mailing on the docket.

SO ORDERED.

Dated: January 11, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a long horizontal stroke extending from the end.

ALISON J. NATHAN
United States District Judge